

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF:

JONATHAN KEMP-GARY

NPN 18598559

RESPONDENT

A.I.D. NO. 2021- 53

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ORDER

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On this day, the matter of the non-resident insurance adjuster license of Mr. Jonathan Kemp-Gary ("Respondent") came before Alan McClain, Arkansas Insurance Commissioner ("Commissioner"). A hearing was held on September 9, 2021, in the Hearing Room of the Arkansas Insurance Department ("Department") pursuant to the Notice of Hearing dated August 31, 2021. The hearing was held before Supervising Attorney Booth Rand ("Hearing Officer") pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Respondent, Jonathan Kemp-Gary appeared by telephone. The Department was represented by Gray Allen Turner, Associate Counsel.

FINDINGS OF FACT

1. Respondent, a resident of Florida, applied for a non-resident insurance adjuster license and for an 18 U.S.C. § 1033 written request for consent on August 22, 2020.

2. Respondent disclosed on his application that he had a felony conviction from a Michigan circuit court for larceny of a person. His conviction has not been sealed or expunged.

3. The Department denied Respondent's adjuster application and his request for a § 1033 waiver on January 5, 2021. A letter informing the Respondent that his adjuster license application and § 1033 application were denied was sent on January 5, 2021, by regular and certified mail to the address he provided. The certified letter was returned as unable to be delivered.

4. On January 15, 2021, the Department erroneously and mistakenly approved the Respondent's license application. His non-resident adjuster license has been active since that time.

5. The Department, through a letter sent on August 17, 2021, informed the Respondent that his license had been issued erroneously and that he had a due process right to a hearing before it was revoked.

6. The Department offered the Respondent the opportunity to voluntarily surrender his adjuster license in lieu of a revocation hearing. The Respondent did not agree to a voluntary surrender of his license.

7. Respondent timely requested a hearing for the purpose of keeping his license and requesting his § 1033 waiver be approved.

8. The record was kept open for twenty days to allow the Respondent the opportunity to submit a letter of support from his employer that they vouch for his insurance adjusting activities in Arkansas.

9. The Respondent did not submit a letter of support from his employer.

10. The State of Florida does not issue § 1033 waivers to its residents.

## CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction pursuant to the Arkansas Insurance Code, specifically Ark. Code Ann. §§ 23-60-101, *et seq.*

2. The Commissioner, as authorized by § 23-64-216(a)(2)(F) may refuse to continue or revoke an insurance adjuster license application where the adjuster has been convicted of a felony. The Respondent was convicted in Michigan of larceny of a person, a felony. His conviction has not been sealed or expunged.

3. The Respondent has not presented sufficient evidence to be granted an 18 U.S.C. § 1033 waiver.

### RECOMMENDATION OF THE HEARING OFFICER

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

1. That the Arkansas non-resident insurance adjuster license of the Respondent be revoked.
2. That the Respondent's request for an 18 U.S.C. § 1033 waiver be denied.

  
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Booth Rand  
Hearing Officer


## CERTIFICATION

I, Alan McClain, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer were made by and under my authority and supervision by Booth Rand, the Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation in full, as set forth herein.

THEREFORE, it is hereby ORDERED that:

1. The Arkansas non-resident insurance adjuster license of the Respondent, Jonathan Kemp-Gary, is no longer continued and is revoked.
2. The Respondent's request for an 18 § U.S.C. 1033 waiver is denied.

IT IS SO ORDERED THIS 10<sup>th</sup> DAY OF November, 2021.

  
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ALAN MCCLAIN  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS